

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 8 of the Lincoln Municipal Code relating to
2 Health and Sanitation to increase various permit fees and to create fees for noise variances by
3 amending Section 8.06.145 to increase the open burning permit fee; amending Section 8.20.150
4 to increase food establishment permit fees; amending Section 8.20.160 to increase fees for late
5 renewal of food establishment permits; amending Section 8.20.170 to increase reinstatement fees
6 for permits issued under the Lincoln Food Code; amending Section 8.20.230 to increase
7 restricted food manager permit fee and the food manager permit fee; amending Section 8.24.150
8 to provide a permit fee for noise control ordinance variances; amending Section 8.38.090 to
9 increase the permit fee for a public swimming pool; amending Section 8.40.070 to increase spa
10 facility permit fees; amending Section 8.44.060 to provide water well permits shall be valid for
11 one year rather than two years; amending Section 8.44.070 to increase water well permit fees;
12 and amending Section 24.38.070 to increase permit fees for wastewater treatment systems and
13 related permits; and repealing Sections 8.06.145, 8.20.150, 8.20.160, 8.20.170, 8.20.230,
14 8.24.150, 8.38.090, 8.40.070, 8.44.060, 8.44.070, and 24.38.070 of the Lincoln Municipal Code
15 as hitherto existing.

16 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

17 Section 1. That Section 8.06.145 of the Lincoln Municipal Code be amended to read
18 as follows:

19 **8.06.145 Open Burning Permits.**

20 (a) Any person may apply for a permit for open burning by filing a written application
21 on forms provided for that purpose with the Director giving reasons why no other practicable
22 method except open burning can be employed to dispose of the refuse involved, the amount and
23 kind of refuse to be burned, the exact location where the burning will take place, including the
24 distances to adjacent structures; and the dates or days and times when the open burning is
25 proposed to take place. Applications from industrial or commercial businesses must be
26 accompanied by payment of a permit fee of ~~fifty dollars~~ \$100.00 per day on which burning is to
27 take place. Said fee shall be credited to the Health Fund.

(b) Upon receipt of the application, the Director shall immediately forward the application to the Fire and Rescue Department having jurisdiction over the area in which the burning is to take place. Such Fire and Rescue Department shall endorse its approval or disapproval on the application within five days.

(c) Issuance of Permits. The Director shall not issue a permit unless:

(1) There is no other practical method except open burning which can be employed to dispose of the refuse involved, and

(2) The appropriate fire department has approved the application as meeting their fire safety requirements; or

(3) The fire is being set for purposes of training firefighters who are employed by or members of a rural fire district.

(d) Applicants may be issued an extended permit covering a period of time not to exceed one year. Such permits may limit the number of times the applicant can burn in a specific time period. As a condition of issuance, specific pollution control procedures or methods may be required by the Director in order to protect the public health.

(e) Unlawful Acts and Revocation. It shall be unlawful for the permittee to fail to carry out any control procedures or other conditions established as criteria for issuance of the permit. Said permit may be revoked by the Director at any time a violation of this ordinance is observed or conditions of the permit are not met.

Section 2. That Section 8.20.150 of the Lincoln Municipal Code be amended to read as follows:

8.20.150 Food Establishment; Permit Fees

(a) Any person who secures a food establishment permit under the Lincoln Food Code shall pay the appropriate fee as follows:

(1) Food Establishment:

Food establishment -- new permit ~~\$295.00~~ \$395.00

Food establishment -- renewal ~~\$195.00~~ \$275.00

Each additional food preparation facility

(new or renewal) \$ ~~90.00~~ \$125.00

(2) Mobile Food Unit:

New or renewal as additional facility \$ ~~90.00~~ \$125.00

1 (3) Food Catering Services:

2 Operating as an additional food preparation facility to an approved food
3 establishment:

4 New or renewal \$ ~~90.00~~ \$125.00
5

6 (4) Temporary Food Establishment:

7 (a) Operating for a single event not to exceed fourteen consecutive days

8 Temporary food establishment \$ ~~75.00~~ 100.00

9 With a related food establishment \$ ~~35.00~~ 50.00

10 Nonprofit organization \$ ~~35.00~~ 50.00
11

12 (b) Operating annually for more than one single event not to
13 exceed fourteen consecutive days

14 Temporary food establishment \$ ~~250.00~~ 350.00

15 Non-Profit Organization \$ ~~125.00~~ 175.00
16

17 (c) Operating as an additional food preparation facility to an
18 approved food establishment

19 New or renewal \$ ~~90.00~~ \$125.00
20

21 (5) Event Market:

22 One to five vendors \$ ~~75.00~~ 100.00

23 Each additional five vendors \$ ~~75.00~~ 100.00
24

25 (6) Farmer's Market:

26 Basic Fee \$ ~~35.00~~ 50.00

27 Plus: Vendor fee for each vendor selling foods

28 other than fruits, vegetables and products permitted

29 by the Nebraska Department of Agriculture \$ ~~5.00~~ 10.00
30

31 (b) Any person issued a new food establishment permit, other than a temporary food
32 service permit, after November 30 of each year shall pay 70% of the yearly fee.

33 (c) Fees shall be payable to the Health Director and the Health Director shall deposit the
34 fees at the City Treasurer's Office. The City Treasurer shall credit the fees to the Health Fund.

35 Section x. That Section 8.20.160 of the Lincoln Municipal Code be amended to read
36 as follows:

37 **8.20.160 Late Fees.**

38 (a) An annual permit holder who fails to renew the permit before it expires, but within
39 thirty days of the date of expiration shall pay a late fee of ~~\$45.00~~ \$65.00 in addition to the annual
40 fee.

(b) An annual permit holder who fails to renew the permit before it expires and fails to renew the permit within thirty days from the date of expiration shall pay a late fee of ~~\$130.00~~ \$180.00 in addition to the annual fee.

(c) An annual permit holder who fails to renew the permit before it expires is operating without a valid permit and shall be subject to appropriate enforcement action by the Health Director.

Section 4. That Section 8.20.170 of the Lincoln Municipal Code be amended to read as follows:

8.20.170 Reinstatement Fee.

Any person eligible for reinstatement as provided in Section 8.20.310, shall pay a reinstatement fee of ~~\$75.00~~ \$100.00 in addition to any other applicable fees. The Health Director shall not reinstate the permit until the reinstatement fee is paid.

Section 5. That Section 8.20.230 of the Lincoln Municipal Code be amended to read as follows:

8.20.230 Food Handler and Food Manager Permit Fees.

(a) Any person who secures a food handler or food manager permit under the Lincoln Food Code shall pay the appropriate fee as follows:

- | | |
|--|----------------------------------|
| (1) Level I Food Handler Permit Fee | \$ 5.00 |
| (2) Level II Food Handler Permit Fee | \$10.00 |
| (3) Level II Approved Inservice Food Handler Permit Fee | \$10.00 |
| (4) Level III Food Handler Permit Fee | \$20.00 |
| (5) Level III Approved Inservice Food Handler Permit Fee | \$20.00 |
| (6) Restricted Food Manager Permit Fee | \$ 20.00 <u>30.00</u> |
| (7) Food Manager Permit Fee | \$ 20.00 <u>30.00</u> |

(b) Fees shall be payable to the Health Department and the Health Director shall deposit the fees at the City Treasurer's Office. The City Treasurer shall credit the fees to the Health Fund.

Section 6. That Section 8.24.150 of the Lincoln Municipal Code be amended to read as follows:

8.24.150 Variances.

(a) The health officer shall have the authority to grant an initial variance to the strict application of Section 8.24.090 for a period of not to exceed fifteen calendar days. Any person

1 seeking such a variance shall file an application with the health officer and shall submit a permit
2 fee of \$50.00. The application shall contain the information which demonstrates that bringing
3 the source of sound or activity for which the variance is sought into compliance with this
4 ordinance would constitute an unreasonable hardship on the applicant, on the community, or on
5 other persons.

6 (b) The health officer shall have the authority to grant an extension to any variance. Any
7 person seeking such an extension shall file an application with the health officer. Notice of an
8 application for an extension shall be posted by a sign placed in a conspicuous place on or near
9 the property upon which action is pending. No extension shall be granted for a period of two
10 days from and after posting of the property.

11 (c) Any individual who claims to be adversely affected by allowance of any requested
12 extension of a variance may, prior to the end of the two-day period after posting of the property,
13 file a statement with the health officer containing any information to support the claim. If the
14 health officer finds that a sufficient controversy exists regarding an application, a public hearing
15 shall be held. All such hearings shall be held within five days after the period for filing claims
16 under this subsection has ended.

17 In determining whether to grant or deny any application, the health officer shall balance the
18 hardship to the applicant, the community, and other persons of not granting the variance or
19 extension against the adverse impact to the health, safety, and welfare of persons affected, the
20 adverse impact on property affected, and any other adverse impacts of granting the variance or
21 extension. Applicants for variances or extensions and persons contesting extensions may be
22 required to submit any information the health officer may reasonably require. In granting or
23 denying an application, the health officer shall place on public file a copy of the decision and the
24 reasons for denying or granting the variance or extension and the criteria to be considered in
25 deciding whether to grant variances and extensions.

26 Variances or extensions shall be granted by notice to the applicant containing all necessary
27 conditions, including a time limit on the permitted activity. The variance or extension shall not
28 become effective until all conditions are agreed to by the applicant. Noncompliance with any
29 condition of the variance or extension shall terminate such variance or extension and subject the

1 applicant to those provisions of this ordinance regulating the source of sound or activity for
2 which the variance or extension was granted.

3 The health officer may issue guidelines defining the procedures to be followed in applying
4 for a variance or extension and the criteria to be considered in deciding whether to grant
5 variances and extensions.

6 (d) Any person who is aggrieved by a decision or order of the health officer under this
7 ordinance may appeal such decision or order to the Air Pollution Control Advisory Board by
8 filing a notice of appeal with the board secretary within fifteen days from the date of the issuance
9 of such decision or order by the health officer.

10 The secretary of the Air Pollution Control Advisory Board, having received a properly
11 submitted notice of appeal, shall notify the chairman of the Air Pollution Control Advisory
12 Board and establish a date for the appeals hearing. The secretary shall then notify the person
13 making the appeal, and any person who appeared before or filed a statement with the health
14 officer, in writing of the time and place of the hearing, which shall, in no event, be more than
15 fifteen days from the date of the filing of the notice of appeal with the board secretary. The Air
16 Pollution Control Advisory Board shall, within seven days of the concluding date of the appeals
17 hearing, file with the health officer a written final decision, either affirming the decision of the
18 health officer, or modifying or reversing same. A copy of said decision shall be forwarded to the
19 appellant.

20 Section 7. That Section 8.38.090 of the Lincoln Municipal Code be amended to read
21 as follows:

22 **8.38.090 Fees.**

23 There shall be a ~~\$200.00~~ \$275.00 fee for a permit to conduct, operate and maintain a Class
24 A or Class B swimming pool. The fee for a permit to conduct, operate and maintain a swimming
25 pool shall be payable annually to the City of Lincoln and shall be credited to the Health Fund.

26 Failure or refusal to pay the permit fees required by this section to be paid on or before
27 April first of each year for which a permit is issued shall be grounds for revocation of such
28 permits.

29 Section 8. That Section 8.40.070 of the Lincoln Municipal Code be amended to read
30 as follows:

1 **8.40.070 Permit and Inspection Fees.**

2 The fee for a permit to conduct, operate, or maintain a spa facility shall be as follows:

3 Individual Spa Facility

4 One Spa Pool. ~~\$200.00~~ 275.00;

5 Additional Spa Pool. ~~\$ 50.00~~ 75.00 per spa pool;

6 Spa Facility Co-Located

7 With A Permitted Swimming Pool. . . . ~~\$ 50.00~~ 75.00 per spa pool.

8
9 The fees shall be payable annually to the City of Lincoln and shall be credited to the Health
10 Fund.

11 Section 9. That Section 8.44.060 of the Lincoln Municipal Code be amended to read
12 as follows:

13 **8.44.060 Maintaining or Using Water Well; Permit Required.**

14 Within sixty days of the adoption of this ordinance, all persons maintaining or using water
15 wells within the limits of the city existing immediately prior to the effective date of this chapter
16 or constructed hereafter shall be required to have such wells inspected by the Health Director
17 and to obtain a permit from the Health Director to continue the maintenance or use of such water
18 well. Permits for such wells shall be valid for ~~two years~~ one year, commencing January first of
19 each ~~odd-numbered~~ year. Such wells shall comply with the provisions of this chapter and with
20 the regulations, standards, and ordinances adopted by the City Council.

21 Section 10. That Section 8.44.070 of the Lincoln Municipal Code be amended to read
22 as follows:

23 **8.44.070 Permit for Water Well; Application; Fees.**

24 Applicants for a permit shall obtain forms from the Health Director, which completed forms
25 together with the permit fee, shall be filed with the Health Director, who shall forthwith forward
26 such completed forms to the Public Utilities Department and such other appropriate departments
27 of the city for processing. If such applicant's well is found to be in compliance with the "Water
28 Well Regulations and Standards of the City of Lincoln" and its ordinances, a permit shall then be
29 issued. In the event that such applicant's well does not comply with such ordinances, regulations
30 and standards, such applicant shall immediately discontinue the use of such well until same is
31 brought into compliance with the applicable ordinance provisions, regulations, or standards.

32 The following permit fees are hereby adopted:
33

- (a) Water well construction permit ~~\$100.00~~ 150.00
- (b) ~~Bi-annual~~ Annual permits, January 1 - December 31;
and one-half of such annual fee for any period after
July 1 - December 31 of any permit year ~~\$100.00~~ 75.00
- (c) Water well repair permit ~~\$ 50.00~~ 75.00

All fees shall be credited to the Health Fund.

Section 11. That Section 24.38.070 of the Lincoln Municipal Code be amended to read as follows:

24.38.070 Fees.

The following fees for permits are required:

- (a) On-site wastewater treatment system construction permit fee:
Standard System ~~\$200.00~~ 275.00
Non-standard System ~~\$300.00~~ 400.00
- (b) On-site wastewater treatment system repair permit fee ~~\$100.00~~ 150.00
- (c) Non-standard on-site wastewater treatment system
annual operating permit fee ~~\$ 30.00~~ 40.00
- (d) Cleaner's permit fee (annual) \$320.00
This permit is issued on an annual basis, expires on
May 31 of each year, and is renewable on payment
of the annual fee and demonstrated compliance with
the requirements of this chapter.
- (e) Any person who secures a ~~master installer or journeyman~~
~~installer~~ registration certificate pursuant to this chapter
shall pay the following respective fee:
- (1) Master Installer ~~\$100.00~~ 20.00
- (2) Journeyman Installer ~~\$ 15.00~~ 20.00
- Layout Specialist \$20.00
- Site Evaluator \$20.00
- Soil Evaluator \$20.00
- Multiple category \$20.00
- (f) Permit Extension Fee ~~\$ 50.00~~ 70.00
- (g) Variance Fee ~~\$100.00~~ 150.00

1 (h) Reinstatement Fee ~~\$100.00~~ 150.00

2 (i) Development area review fees

3 A base fee and a per lot fee shall be paid for Health

4 Director review of any development area as follows:

5 Base fee \$275.00

6 Per lot fee \$ 25.00

7
8 (i j) All fees are payable to the City of Lincoln and shall be credited to the Health
9 Fund. No fees will be refunded.

10
11 Section 12. That Sections 8.06.145, 8.20.150, 8.20.160, 8.20.170, 8.20.230,
12 8.24.150, 8.38.090, 8.40.070, 8.44.060, 8.44.070, and 24.38.070 of the Lincoln Municipal Code
13 as hitherto existing be and the same are hereby repealed.

14 Section 13. That this ordinance shall take effect and be in force from and after its
15 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2005:

Mayor